



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Insurance Commissioner

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: These amendments eliminate the need to recalculate a new minimum benefit amount for chemical benefits each year by establishing a set minimum benefit amount for 2005 with a set progression of escalating benefit amounts through 2009.

Insurance Commissioner Matter No. R 2003-08

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 284-53-010

Suspended:

Statutory authority for adoption: RCWs 48.02.060, 48.21.197, 48.44.050, and 48.46.200

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-17-128 on 8/18/04 (date).

Describe any changes other than editing from proposed to adopted version:

WAC 284-53-010 (5) (a) the word "less" was changed to "more."

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Kacy Scott
Address: PO Box 40255
Olympia, WA 98501

phone (360) 725-7041
fax (360) 586-3109
e-mail kacyb2@comcast.net

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: October 28, 2004

NAME (TYPE OR PRINT)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY
Information input by Agency

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 28 2004

TIME 4:58 PM
WSR 04-22-051

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>2</u>	Repealed	_____
-----	-------	---------	----------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>2</u>	Repealed	_____
-----	-------	---------	----------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>2</u>	Repealed	_____

AMENDATORY SECTION (Amending Matter No. R 97-8, filed 7/22/99, effective 8/22/99)

WAC 284-53-005 Definitions. (1) "Chronic illnesses" include, but are not limited to, heart disease, diabetes, chronic obstructive pulmonary disease, and chemical dependency.

(2) "Emergency medical condition" has the same meaning as that contained in RCW 48.43.005.

(3) "Medically necessary" or "medical necessity," with respect to chemical dependency coverage, means as indicated in the Patient Placement Criteria for the Treatment of Substance Abuse-Related Disorders II as published in 1996 by the American Society of Addiction Medicine.

~~((3) Other terms used in this chapter, but not specifically defined here, shall have the meanings given in WAC 284-43-130 or, if not defined there, in WAC 284-50-030.))~~

AMENDATORY SECTION (Amending Matter No. R 97-8, filed 7/22/99, effective 8/22/99)

WAC 284-53-010 Standards for coverage of chemical dependency. ~~((Contractual provisions in any policy issued or renewed on or after January 1, 2000,))~~ Coverage for chemical dependency required by RCW 48.21.180, 48.44.240, or 48.46.350 ~~((shall))~~ must meet the following standards and administrative requirements.

(1) Medically necessary detoxification must be covered as an emergency medical condition according to RCW 48.43.093, and so long as a patient is not yet enrolled in other chemical dependency treatment, detoxification may not be included when calculating payments within the chemical dependency payment minimum required in this chapter.

(2) ~~((The))~~ Coverage for chemical dependency ~~((shall))~~ must provide payment for reasonable charges for any medically necessary treatment and supporting services ~~((provided))~~ rendered to an enrollee by a provider that is an "approved treatment program" ~~((approved))~~ under RCW 70.96A.020(3). ~~((In addition,))~~ Medically necessary detoxification services may ~~((also))~~ be provided in hospitals licensed ~~((according to))~~ under chapter 70.41 RCW.

(3) Except ~~((to the extent))~~ as prohibited by this chapter, ~~((the))~~ chemical dependency coverage may be limited by provisions of the contract that ~~((are applicable))~~ apply to other benefits or services for ~~((other))~~ chronic illnesses or disease ~~((generally))~~ including, but not limited to, provisions relating to enrollee point of service cost sharing.

~~((However,))~~ Denial of coverage ~~((shall))~~ may not be ~~((denied by reason of))~~ based on contract provisions ~~((which))~~ that are not pertinent to the treatment of chemical dependency, such as provisions requiring a treatment program to have surgical facilities or approval by the joint commission on accreditation of hospitals, that there be a physician in attendance, or that the exact date of onset be known.

(4)(a) The minimum benefit~~((s))~~ for chemical dependency treatment and supporting services ~~((shall be no less than ten thousand dollars))~~, exclusive of all ~~((enrollee point of service))~~ cost-sharing amounts in any consecutive twenty-four-month period shall be as follows:

(i) For contracts issued or renewed January 1, 2005, through December 31, 2005, the benefit must be no less than twelve thousand five hundred dollars.

(ii) Each succeeding year from January 1, 2006, through December 31, 2009, the benefit must increase in increments of five hundred dollars for new and renewing contracts.

~~((The minimum benefit specified in this subsection must be adjusted by a carrier in any of its contracts for which a new or revised form is filed with the commissioner. The adjustment must correspond with the change in the medical care component of the consumer price index for all urban consumers for the Seattle Standard Metropolitan Statistical Area compiled by the Bureau of Labor statistics, United States Department of Labor. The base year for the computation shall be 1999.))~~ No later than January 1, 2009, the commissioner shall begin a review of past benefit adjustments to determine if increases have been reasonable and to establish future minimum benefits. By June 30, 2009, the commissioner shall publish the new minimum benefit amounts for the period beginning January 1, 2010.

(5) Contracts ~~((provisions))~~ subject to this rule must comply with the following requirements:

(a) ~~((Shall not impose))~~ Waiting periods or preexisting condition limitations on chemical dependency coverage~~((, except that a carrier may impose no longer than a three month preexisting condition limitation for chemical dependency treatment and supporting services to the extent that a preexisting condition limitation is imposed for other chronic illnesses))~~ may be no more restrictive than those that are imposed for any other chronic illness under the contract.

(b) ~~((Shall not deny))~~ Reasonable benefits for actual treatment and services rendered may not be denied solely because a course of treatment was interrupted or was not completed.

(c) ~~((May limit))~~ Coverage may be limited to specific facilities ~~((but))~~ only if the carrier provides or contracts for the provision of approved treatment programs under RCW 70.96A.020 ~~((which))~~ that alone or in combination offer both inpatient and outpatient care and ~~((which))~~ that comply with network adequacy requirements established in WAC 284-43-200. This right to limit coverage to specific facilities permits a carrier to limit diagnosis and treatment to that rendered by itself or by a facility to which it makes referrals, but, in

either case, only if the facility is or is a part of an approved treatment program under RCW 70.96A.020.

(d) ~~((Except in the case of detoxification services,))~~ A carrier may require prenotification in all reasonable situations ~~((+))~~, and may ~~((also))~~ require a second opinion if ~~((such))~~ a second opinion is required under the contract ~~((generally))~~ for other chronic illnesses. Prenotification with respect to medically necessary detoxification services is not reasonable and may not be required.

(6) ~~((In situations))~~ (a) In certain circumstances, the carrier may require the enrollee to provide an initial assessment of the need for chemical dependency treatment and a treatment plan prior to scheduled treatment. This will enable the carrier to make its own evaluation of medical necessity. The assessment is at the enrollee's expense and must be provided no less than ten and no more than thirty working days before treatment is to begin. The circumstances are:

(i) Where an enrollee is ~~((under))~~ court ~~((order))~~ ordered to undergo a chemical dependency assessment or treatment ~~((, or in))~~;

(ii) Situations related to deferral of prosecution, deferral of sentencing or suspended sentencing ~~((, or in))~~;

(iii) Situations pertaining to motor vehicle driving rights and the Washington state department of licensing ~~((, the carrier may require the enrollee to furnish at the enrollee's expense no less than ten and no more than thirty working days before treatment is to begin, an initial assessment of the need for chemical dependency treatment and a treatment plan, made by an individual of the enrollee's choice who is a chemical dependency counselor as defined in chapter 440-22 WAC employed by an approved treatment program under RCW 70.96A.020 or licensed under chapter 18.57 or 18.71 RCW to enable the carrier to make its own evaluation of medical necessity prior to scheduled treatment))~~.

(b) For the initial assessment in (a) of this subsection, the enrollee may choose any individual that is:

(i) Certified as a chemical dependency professional under chapter 246-811 WAC; and

(ii) Employed by an approved treatment program under chapter 70.96A RCW.

(c) Nothing in this chapter ~~((may be construed to))~~ requires a carrier to pay for court ordered chemical dependency treatment that is not medically necessary, ~~((nor may anything in this chapter be construed to))~~ or relieves a carrier from its obligations to pay for court ordered chemical dependency treatment when it is medically necessary.

(7) Unless chemical dependency treatment is determined not to be medically necessary, or except as ~~((determined not to be medically necessary or))~~ otherwise specifically provided in this chapter, contractual provisions ~~((subject to this section and the administration of such provisions shall not use definitions, predetermination procedures or other prior approval requirements, or other provisions, requirements or procedures,~~

~~which~~)) may not restrict access to treatment, continuity of care or payment of claims.

(8) Any contract that provides coverage for chemical dependency must define "chemical dependency" consistent with the definitions contained in Title 48 RCW.